

## EXPUNGEMENT OF CONVICTION OR DIVERSION AND RELATED ARREST RECORDS

Charter Ordinance Number 175, Section 1, of the Code of the City of Wichita provides a procedure by which you may have your Municipal Court conviction(s) and/or diversion(s), and related arrest records, expunged.

### REQUIREMENTS

Any person who has been convicted of, or placed on diversion for, a violation of a Wichita City Ordinance may petition the court for an order of expungement of the conviction or diversion, and related arrest records, if three or more years have elapsed since the person:

- 1) Satisfied the sentence imposed; or
- 2) Was discharged from probation, parole or a suspended sentence; or
- 3) Fulfilled the terms of the diversion agreement

### EXCEPTIONS

No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed, or fulfilled the terms of a diversion agreement, or was discharged from probation, parole or suspended sentence if such a person was convicted of or granted diversion from a violation of one of the following crimes:

- 1) Driving Under the Influence of Alcohol or Drugs: Section 11.38.150
- 2) Driving While Suspended: Section 11.42.030(c)
- 3) Failure to Report an Accident: Sections 11.12.010, 11.12.020, 11.12.040 and 11.42.060
- 4) Failure to Have Liability Insurance: Section 11.13.010
- 5) Any crime involving domestic violence, as that term is defined in Section 1.06.010

### PROCEDURE FOR EXPUNGEMENT

To request an Expungement of Conviction or Diversion and Related Arrest Records, the petitioner must submit to the Municipal Court Clerk's Office an original and four copies of an incorporated MOTION and ORDER of EXPUNGEMENT OF CONVICTION OR DIVERSION AND RELATED ARREST RECORDS. If the Motion includes more than one charge, an additional copy for each charge must also be submitted. The filing fee must accompany the motion and order.

The court will summarily approve all such Motions and orders of Expungement that are approved by the City Attorney, unless the expungement involves a crime which is covered by the Kansas Victim's Rights Act K.S.A. 74-7333. Any expungement for crimes or diversions and the related arrest records falling within the scope of the Victim's Rights Act must be set for hearing by the court and the victim will be notified and given an opportunity to address the court regarding the motion for expungement.

The Motion and Order for Expungement of Conviction and Related Arrest Records must contain the following information:

- 1) The Petitioner's full name;
- 2) The Petitioner's full name at the time of arrest, conviction or diversion, if different;
- 3) The Petitioner's sex, race, and date of birth;
- 4) The offense(s) and the ordinance number(s) for which the Petitioner was arrested, convicted, or diverted;
- 5) The date of arrest(s), conviction(s) or diversion;
- 6) The citation number(s), docket number(s) and the Wichita Police Department Case Numbers for the conviction(s) or diversion(s);
- 7) The date showing the fulfillment of the terms of the diversion agreement, or the conditions of parole/probation (if any);

- 8) Conviction of a felony in the past two (2) years and any criminal proceedings which are pending against the Petitioner;
- 9) Facts setting forth the reason Petitioner's conviction(s) or diversion(s) and related arrest records should be expunged;
- 10) That as of the date the motion is filed, there are no criminal or traffic charges pending in any court or jurisdiction against the Petitioner.

A sample Motion and Order for Expungement of Conviction or Diversion and Related Arrest Records is available from the Municipal Court Clerk's Web site.

The Court shall order the Petitioner's arrest, conviction(s), or diversion(s) expunged if the Court finds:

- 1) That the Petitioner has not been convicted of a felony in the past two (2) years and no proceedings involving any crime is pending or being instituted against the Petitioner;
- 2) That the circumstances and behavior of the petitioner warrant the expungement and
- 3) That the expungement is consistent with the public welfare.

After the Motion and Order of Expungement has been approved, the petitioner shall be treated as not having been arrested or convicted of or diverted from the crime except that:

- 1) Upon convictioner application for diversion for any subsequent crime, the conviction or diversion that was expunged may be considered as a prior conviction or diversion in determining the sentence to be imposed, or whether the Petitioner can be granted diversion for the subsequent crime;
- 2) The Petitioner shall disclose that the arrest, conviction, or diversion occurred if asked about previous arrests, convictions or diversions:
  - a) In any application for employment as a detective with a private detective agency;
  - b) As security personnel with a private patrol operator;
  - c) With an institution of the Department of Social Rehabilitation Services;
  - d) In any application for admission, or for an order of reinstatement to the practice of law in *this state*;
  - e) To aid in determining Petitioner's qualifications for employment with the Kansas Lottery;
  - f) To aid in determining Petitioner's qualifications for employment with the Kansas racing commission, or for work in sensitive area in pari-mutuel racing as deemed appropriate by the executive director of the commission and to aid in determining qualifications for licensure or renewal of licensure by the commission;
  - g) Upon application for a commercial driver's license under K.S.A. 8-2.125 through 8-2.142;
  - h) To aid in determining the Petitioner's qualifications to be an employee of the state gaming agency;
  - i) To aid in determining the Petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact; or
  - j) In any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative, all as defined in K.S.A. 17-1252.
- 3) The Court, in the order of expungement, may specify other circumstances under which the arrest, conviction, or diversion is to be disclosed; and
- 4) The conviction or diversion may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction or diversion of the type expunged.

## EXPUNGEMENT OF ARREST RECORDS

Charter Ordinance Number 122, Section 13, as set forth in Section 2 of Charter Ordinance 175, of the Code of the City of Wichita provides a procedure by which any person who has been arrested on a violation of a city ordinance may petition the Municipal Court for expungement of the records of that arrest when:

- 1) No charges have been or likely to be filed;
- 2) Charges have been dismissed; or
- 3) The petitioner has been found not guilty in court proceedings.

For the purposes of this procedure, “expungement” means the sealing of records so that they are unavailable except to the petitioner and criminal justice agencies as provided by state law.

### PROCEDURE FOR EXPUNGEMENT OF ARREST RECORDS

To request an Expungement of Arrest Records, the petitioner must submit to the Municipal Court Clerk’s Office an original and three copies of an incorporated MOTION and ORDER OF EXPUNGEMENT OF ARREST RECORDS. If the Motion includes more than one arrest, an additional copy for each arrest must also be submitted. The filing fee must accompany the motion and order.

The Court will summarily approve all Motions and Orders of Expungement of Arrest Records that are approved by the City Attorney, unless they involve a crime which is covered by the Kansas Victim’s Rights Act, K.S.A. 74-7333. Any expungement for arrest records falling within the scope of the Victim’s Rights Act must be set for hearing by the court and the victim(s) will be notified and given opportunity to address the court regarding the motion for expungement.

The Motion and Order for Expungement of Arrest Records must contain the following information:

- 1) The Petitioner’s full name;
- 2) The Petitioner’s full name at the time of arrest, if now different;
- 3) The Petitioner’s sex, race, and date of birth;
- 4) The offense(s) and the ordinance number(s) for which the Petitioner was arrested;
- 5) The date of arrest(s);
- 6) The Wichita Police Department Case Numbers for the incident involving the arrest;
- 7) If the Petitioner was found not guilty in a court proceeding, or the charges have been dismissed, the applicable court, the case or docket number and the date of final deposition.

A sample Motion and Order for Expungement of Arrest is available from the Municipal Court’s Office or [www.wichita.gov](http://www.wichita.gov).

The Court shall order the Petitioner’s arrest records expunged if the Court finds:

- 1) The arrest occurred because of mistaken identity; or
- 2) A court has found that there was no probable cause for the arrest; or
- 3) The Petitioner was found not guilty in court proceedings; or
- 4) The expungement would be in the best interests of justice and either
  - a) Charges have been dismissed, or
  - b) No charges have been or are likely to be filed.

The Order of Expungement of Arrest Records shall state the information required to be stated in the petition and shall state the grounds for expungement as set forth in (1) through (4) above. If an order of expungement of arrest is entered, the Petitioner shall be treated as not having been arrested, except that if the grounds for

expungement are as provided in (4) above, the court shall determine if, in the interest of public welfare the records should be available for any of the following purposes:

- 1) In any application for employment as a detective with a private detective agency, as security personnel with a private patrol operator, or with an institution of the Department of Social Rehabilitation Services;
- 2) In any application for admission, or for an order of reinstatement to the practice of law in this state;
- 3) To aid in determining Petitioner's qualifications for employment with the Kansas Lottery;
- 4) To aid in determining Petitioner's qualifications for employment with the Kansas racing commission, or for work in sensitive areas in pari-mutuel racing as deemed appropriate by the executive director of the commission and to aid in determining qualifications for licensure or renewal of licensure by the commission;
- 5) Upon application for a commercial driver's license under K.S.A. 8-2.125 through 8-2.142;
- 6) To aid in determining the Petitioner's qualifications to be an employee of the state gaming agency;
- 7) To aid in determining the Petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact; or
- 8) In any other circumstances which the court deems appropriate.

Subject to any disclosures required by the Court in the Order of Expungement of Arrest Records, a person whose arrest records have been expunged may state that such person has never been arrested in any application for employment, license, or other civil right or privilege, or as part of any appearance as a witness.